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C O N F I D E N T I A L SECTION 01 OF 02 PRAGUE 001205

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E.O. 12958: DECL: 11/07/2017  
TAGS: [PREL](#) [PGOV](#) [MASS](#) [MARR](#) [EZ](#)  
SUBJECT: THIRD VISIT OF STATUS OF FORCES NEGOTIATION TEAM  
TO PRAGUE

Classified By: DCM Mary Thompson-Jones for reasons 1.4 (b) and (d)

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SUMMARY AND INTRODUCTION  
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1.(C) From October 30 to November 1, Ambassador Jackson McDonald, Senior Advisor for Security Negotiations and Agreements (PM/SNA), led an interagency delegation to Prague to continue negotiations on a supplemental Status of Forces Agreement (SOFA). The U.S. and Czech delegations completed a thorough review of the consolidated SOFA draft text prepared by the U.S. team. The talks took place in a friendly, positive atmosphere.

2.(C) The Czech delegation, following strict orders from above, maintained tough positions on three key issues related to Czech sovereignty and to the Czech people's sensitivity on the issue of allowing any foreign troops on their soil following several tragic decades of Soviet military presence.

-- First, scope: The Czechs continue to insist that the SOFA be limited to the ballistic missile defense (BMD) radar site;

-- Second, criminal jurisdiction: The Czechs decline to exercise their sovereign right to waive primary criminal jurisdiction over U.S. personnel, even though such a waiver could be rescinded in any specific case; and

(Note: Defense Minister Parkanova used similar rhetoric in her meeting with Defense Secretary Gates on October 23. End note.)

-- Third, symbolic rent: The Czech want the U.S. to pay symbolic rent for the radar site as proof that the site remains sovereign Czech territory.

3.(C) Ministry of Defense (MOD) Director for Policy and Strategy Ivan Dvorak, the lead Czech negotiator, emphasized that the Prime Minister and Defense Minister view these three issues as "show stoppers" which would prevent government approval and parliamentary ratification of the SOFA.

4.(C) Before the next round of negotiations, set for December 11-13 in Prague, Washington may want to begin interagency consultations to develop strategies to overcome these obstacles or possible concessions that may be necessary to conclude this agreement. End Summary.

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CZECHS MAINTAIN HARD POSITIONS ON SCOPE, JURISDICTION, AND RENT

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5.(C) Replaying a leitmotif from round two, Ivan Dvorak, the lead Czech negotiator, made it clear that the Czechs believe the SOFA must be limited to the BMD radar site. In his opening statement, he remarked that he had strict instructions from the Prime Minister and "the highest levels of the Czech Government" to seek a limited SOFA. He emphasized on several occasions that Parliament would not approve a broad SOFA. As in the last round, Ambassador McDonald explained the rationale for a general SOFA covering "mutually agreed activities." He also reminded the Czechs that a narrow SOFA could hamper future bilateral military cooperation. Dvorak said he understood the U.S. rationale but stuck to his strict instructions.

6.(C) Czech negotiators also maintained their tough position on criminal jurisdiction. The Czech Republic adamantly declines to exercise its sovereign right to waive its primary criminal jurisdiction over U.S. personnel in advance. Ambassador McDonald reiterated the U.S. position from previous rounds. He argued that, by having the right to withdraw the waiver at any time, the Czechs are not giving up their sovereign right to prosecute any specific case. Citing the difficulty of getting such a provision through Parliament, Dvorak described our requirement for an advance waiver as a "show-stopper" for concluding and ratifying the SOFA. (Comment: This position appears to back-peddle somewhat from what we had understood after a bilateral meeting of legal experts held in Prague in early October. End comment.)

7.(C) For the Czechs, a symbolic rent of 1 crown or \$1 would

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demonstrate to the public and the Parliament that the Czech Republic maintains full sovereignty over the radar site. Ambassador McDonald underscored that, with a few, extremely rare exceptions, the U.S. does not pay rent for access to or use of facilities and that the U.S. has never paid another NATO member-state for such access or use of facilities. Unlike the criminal jurisdiction waiver and the scope issue, the discussions over rent indicated that there may be a way to finesse this issue with explicit declarations in the SOFA that the Czechs maintain full sovereignty over the radar site.

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#### ENVIRONMENTAL ISSUES

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8.(C) Dvorak explained that environmental issues will require significant attention in the next round. With the Green Party as a member of the ruling coalition, any provisions of the SOFA or the BMD agreement that appear to have negative environmental impact could cause the government to lose the Green Party's support. Modeled on the successful information exchange between of legal experts from both sides in early October, Ambassador McDonald proposed that a team of DOD environmental experts visit Prague to exchange information in early December prior to the next round of negotiations. The Czech side concurred. The Czechs also provided the U.S. delegation with their major questions and English-language versions of applicable EU directives and laws. (Comment: Embassy supports the visit of a team of environmental experts, but recommends that this be more focused on Czech specifics than was the environmental briefing done earlier this year. To achieve this, we recommend that a member of the current SOFA team be part of the expert group. End comment)

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#### OTHER OUTSTANDING ISSUES

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9.(SBU) A variety of issues, including claims, labor law, contracting, motor vehicles, and other issues that impinge on

balancing U.S. operational needs with the Czechs, desire to maintain the primacy of their laws and regulations still must be resolved. Both sides explained their reasoning on these issues and, wherever possible, found compatible language. As appropriate, the U.S. delegation will consolidate Czech and U.S. language into a fresh, bracketed draft. The U.S. delegation undertook to provide the updated draft SOFA to the Czechs on/about November 13.

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COMMENT  
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10.(C) This round of negotiations occurred in the wake of considerable Czech media commentary on the thorny issue of the possible stationing of Russian personnel at the Brdy radar site. Dvorak opened the first day of SOFA negotiations by remarking that press reports following the recent visit of Secretary of Defense were "very emotional," but should not

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impact the negotiation of this purely bilateral SOFA. We expect, however, that the "Russia question" will arise during the November 5-6 BMD talks in Prague. In a MOD press statement issued at the conclusion of this round, the Czech side included a quote from Dvorak stating that the SOFA talks covered the potential stationing of U.S. forces only. Dvorak told us that the Prime Minister had required this language to be included in any press release. Defense Minister Parkanova personally cleared the final text. The Czech government is seeking to recover from the emotional media fall-out resulting from reports that Russian liaison personnel might be present at the radar site.

11. (U) Ambassador McDonald has cleared this cable.  
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